Supreme Court, U. S.
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In The

Supreme Court of the United States

October Term, 1976

No. 76-1170

WILLIAM TERNER, Pro Se,

Petitioner,

-against-

Hon. JAMES D. HOPKINS, Justice of the Appellate Div. of the State of N.Y.; Hon. LEONARD RUBENFELD, J.S.C. of the State of N.Y.; JAMES DEMPSEY, Esq.; Hon. ALVIN R. RUSKIN, J.S.C. of the State of N.Y.; Hon. HAROLD L. WOOD, J.S.C. of the State of N.Y.; N.Y. State Sen. BERNARD G. GORDON, Chairman, N.Y.S. Judiciary Comm.; Hon. MARTIN B. STECHER, J.S.C. of the State of N.Y.; Hon. WM. A. WALSH, JR., J.S.C. of the State of N.Y.; JERALD S. KALTER, M.D.; Hon. JOHN C. MARBACH, J.S.C. of the State of N.Y.; MILDRED TERNER; KRAFTCO CORP., and MFG. HANOVER TRUST CO. (Transfer Agents for Kraftco Corp.),

Respondents.

PETITION (WITH APPENDICES) FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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IN THE

SUPREME COURT OF THE UNITED STATES

No. .....

WILLIAM TERNER, Pro Se,

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against

Hon. JAMES D. HOPKINS, Justice of the Appellate Div. of the State of N.Y.; Hon. LEONARD RUBENFELD, J.S.C. of the State of N.Y.; JAMES DEMPSEY, Esq.; Hon. ALVIN R. RUSKIN, J.S.C. of the State of N.Y.; Hon. HAROLD L. WOOD, J.S.C. of the State of N.Y.; N.Y. State Sen. BERNARD G. GORDON, Chairman, N.Y.S. Judiciary Comm.; Hon. MARTIN B. STECHER, J.S.C. of the State of N.Y.; Hon. WM. A. WALSH, JR., J.S.C. of the State of N.Y.; JERALD S. KALTER, M. D.; Hon. JOHN C. MARBACH, J.S.C. of the State of N.Y.; MILDRED TERNER; KRAFTCO CORP., and MFG. HANOVER TRUST CO. (Transfer Agents for Kraftco Corp.),

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

The petitioner, William Terner, respectfully requests that a writ of certiorari be issued to review the final judgment of the United States Court of Appeals for the Second Circuit entered in the office of the clerk on October 27, 1976 (See Appendix III A53-A54).*

OPINION BELOW

The opinion of Judge Whitman Knapp of the United States District Court for the Southern District of New York is reproduced here (See Appendix II A44-A52).

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* References A-- are to the Appendix pages contained together with this Writ; References JA-- are to the pages of the Joint Appendix submitted to the Second Circuit and are to be delivered to this Court along with this Writ for reference in the files of this Court; References prefaced by Record-- are the specific pages in the complete Amended Complaint together with supporting Affidavits and Exhibits that are to be delivered to this Court along with this Writ for reference in the files of this Court.

PRELIMINARY STATEMENT

* * * *

What certain New York State Courts did to me, the petitioner, reads like a political exposé smuggled out of a country run by dictatorship.

I carefully avoided presenting to the District Court any issues to be retried on any of the merits of the New York State litigation. The only issues presented to Federal Court involved the overt Court irregularities including judicial misconduct which denied my Constitutional rights.

I understand that this Court is mainly concerned with broad issues involving questions of law. I also understand that all of our Courts may take Judicial notice of the facts and practical consequences of the issues presented. Therefore, I

respectfully submit the following.

I requested the District Court to temporarily halt all New York State judgments in various matters until the Federal Courts had had an opportunity to examine and make a final determination upon my most serious charges. This was to put a temporary stop to my being "skinned alive" since the damages caused to me in all facets of my life were and would continue to be irreversible even if the Federal Courts found in my favor. The District Court refused my request.

My dozens of allegations were documented by either third party affidavits, court minutes or other court records. The documentation is contained in some 50 Exhibits which were part of the Amended Complaint presented to the District Court. I inquired of the Clerk's office of this Court whether pertinent court records too voluminous to be practically made a part of the bound writ of certiorari, could be included for reference in the file of this case. The answer was yes and reference

papers are being submitted to this Court along with this writ.

The memorandum and order of the District Court accepted my allegations as fact. My adversaries did not dispute any of my documentations presented to the District Court. Yet, the District Court ruled against me.

Since that original request to the Federal District Court, the New York State Westchester County courts continued to endorse the illegal plunderings involving hundreds-of-thousands-of-dollars of the financial fruits of my life's work.

* * * * *

CONSTITUTIONAL AND BROAD AUTHORITIES INVOLVED INCLUDING COMMENT

1. Code of Judicial Conduct:

   Canon 2
   Canon 5 C(4)(a)

The canons of the Code of Judicial Conduct are to govern a judges behavior. For instance, the commentary on Canon 2 explains that a judge must not only avoid all impropriety but also all appearances of impropriety: "...Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. He must expect to be the subject of constant public scrutiny. He must therefore accept restrictions on his conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly."

Although a judge may "attend a bar related function or activity devoted to the improvement of the law, the legal system, or the administration of just-

ice;..." (Canon 5 C(4) (a)), this does not mean that he is free to attend such extravaganzas as those which attorney/ respondent Dempsey gives and not make this fact a matter of record as Judge/ respondent Hopkins and Judge/respondent Rubenfeld did not disclose. Nor did respondent/attorney Dempsey, petitioner's adverse attorney, reveal in open Court of his social and personal relationship with presiding judges in petitioner's matters to make this fact a matter of record so that an ordinary litigant like petitioner can choose a judge which in his eyes is impartial and will give him equal justice, privileges and immunities under law, a requirement of the due process and equal protection clauses of the Fourteenth Amendment and the Civil Rights Acts of 1871.

2. Federal Judicial Code, 28 U.S.C.A. §455 (Supp. 1976)

The Federal Government has seen fit to clarify and expand our code of ethics

and sense of morality in government since Watergate. Compare a 1974 addition to the Federal Judicial Code, 28 US.C.A. §455 (Supp. 1976) which provides in (a) that any judge "shall disqualify himself in any proceeding in which his partiality might be questioned"; and then adds in (e) that "Waiver may be accepted provided it is preceeded by a full disclosure on the record of the basis for disqualification." (A72-A73).

3. Fifth Amendment:

> * * * nor shall any person * * * be deprived of life, liberty, or property, without due process of law * * *.

4. Fourteenth Amendment, Sections 1 and 5:

> SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
>
> * * *
>
> SECTION 5. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

5. Civil Rights Act of 1871, §1, 42 U.S.C. §1983 (1970):

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

6. Civil Rights Act of 1871, §2, 42 U.S.C. §1985 (3) (1970)

> If two or more persons in any State or Territory conspire * * * for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws * * * if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation,

against any one or more of the conspirators.

STATEMENT OF THE CASE

The basic facts of this case are contained in the Amended Complaint submitted to the District Court (A1-A43). The specific Counts of that Complaint are contained in A16-A43. The accompanying Affidavit and more detailed proofs and documentations to back up the Complaint should be in this Court's files for further reference since they were to be delivered along with this writ.

Should this Court elect to hear this matter, it will provide a unique opportunity to examine and expose the consequences that were actually suffered by petitioner, over a seven year period because of judicial misconduct in a State Court.

There was not one single denial by any of the respondents herein of any of petitioner's most serious documentations of

overt Court irregularities and judicial misconducts.

The issues presented here are narrow. Is it proper for a presiding State judge to withhold the fact that he has a personal and social relationship with one of the attorneys before him? Is it proper for that same presiding judge not to disqualify himself? Do manifold Court irregularities and judicial misconducts add up to denial of due process, including "looking away" from documented proof of subornings of evidence and witnesses and refusals to hear vital newly discovered evidence?

Are the Canons of Judicial Ethics to be complied with or can a State judge be permitted to violate the most basic concepts supposedly inherent in our judicial system which is even-handed justice that is guaranteed by our Constitution?

Petitioner herein could not understand why the New York State, Westchester Courts were rendering decisions adverse to him

despite carefully prepared and carefully presented documented evidence warranting a favorable decision to petitioner.

It was only after many devastating legal defeats that a pattern appeared for a possible answer. This pattern consisted of State courts permitting judicial prejudice, neglect, intolerance, intemperance, prejudgment and otherwise allowing gross inequities against petitioner to flourish.

Petitioner's sense of justice was so outraged that he began to investigate. He felt that as a citizen of a free country he was entitled to equal treatment. His investigations brought to light the circus tent extravaganzas of his former spouse's attorney, James Dempsey, where many judges were lavishly entertained without either host or judge revealing their personal and social relationship in open court. At one of these

bashes, held on June 22, 1974, there were present these judges, among others:

JAMES D. HOPKINS, Associate Justice, Appellate Division, Second Judicial Dept.;

LEONARD RUBENFELD, Justice Supreme Court, Ninth Judicial District;

DAVID N. EDELSTEIN, Chief Judge, Southern District; United States District Court;

ANN T. MIKOLL, Justice Supreme Court, Eighth Judicial District;

ROBERT J. TRAINOR, Justice Supreme Court, Appellate Division, Second Judicial Dept.;

GEORGE BEISHEIM, JR., Justice Supreme Court, Ninth Judicial District;

VINCENT GURAHIAN, Judge Family Court, Westchester County;

MORRIE SLIFKIN, Justice Supreme Court, Ninth Judicial District;

RAYMOND C. BARATTA, Surrogate, Dutchess County;

EVANS V. BREWSTER, Surrogate, Westchester County;

DOROTHEA DONALDSON, Judge, New York State Court of Claims;

BERNARD G. GORDON, New York State Senator, Chairman of the N.Y. State Judiciary Committee. (A 55-A66)

Even in the beginning -- indeed even before the beginning -- of the divorce litigation, the one who led petitioner's former spouse to defendant attorney Dempsey was none other than petitioner's own lawyer, New York State's Senator Bernard G. Gordon. Petitioner had consulted with him and discussed with defendant Gordon the marital problems petitioner and his former spouse were experiencing. Yet it was Senator Gordon, with whom petitioner himself had discussed his marital difficulties, who subsequently took petitioner's former wife to attorney Dempsey probably hoping for a referral fee from the $15,000.00 that petitioner's former spouse already paid to attorney Dempsey plus the $50,000.00 which the New York Courts have ruled he is additionally to receive from petitioner. State Senator Gordon is chairman of the New York State Senate Judiciary Committee.

Judge Knapp's decision focuses attention on the degree of proof of state

judges having allegedly accepted a corrupt contribution to prejudice their decisions in favor of the donor. Petitioner/plaintiff never made such charges unless one wishes to construe that a state judge in the habit of being lavishly entertained by a host/attorney litigating before him could naturally be beholden to the host/attorney for a standard of living not otherwise possible on a state judge's present salary.

Political "backscratching" is an old game. The financial killings that have been made by some of the parties are motive enough for risking the unliklihood of exposure while under the shielding umbrellas of politicians like James Dempsey and Bernard G. Gordon.

The major point is not what either entertained judges or host/attorney gained from their personal and social relationship, but rather if the petitioner was denied equal justice under the law because of such a social and personal relationship

not having been revealed by judges or attorney to afford petitioner the opportunity to request another judge who was not lavishly entertained by the adversary attorney (A67-A68, A69-A70-A71).

The question of whether a judge received a corrupt contribution while not disclosing his personal and social relationship with one of the parties connected with the litigation being adjudicated by that judge is likewise immaterial. Petitioner submits that an act of judicial omission in not notifying all parties in open court that a personal and social relationship exists between the presiding judge and the adversary attorney is no different than the act of commission of perjury by a juror who is expected to not perjure himself when normally asked if he knows any of the parties connected with the pending litigation. Should that juror not disclose a personal or social relationship with one of the parties and if this fact is documented -- even after a decision is

rendered -- then that decision most surely would be held null and void on the aforementioned ground.

The reason for that juror withholding information critical to an impartial trial is not the criteria. There are countless possible reasons why a juror might beforehand favor one side or the other. One cannot brand that juror with having accepted a corrupt contribution as the exclusive motivating force for the juror's dishonesty. Nor is it reasonable to defend that juror's dishonesty by stating that since there was no evidence of a corrupt contribution to that juror by his friend -- that the juror is not guilty of perjury.

In fact, the juror could possibly claim personal ignorance of the serious legal implications and consequences that could result from his withholding the fact of a personal or social relationship between himself and one of the parties connected with the litigation in the denial

of equal protection under the law. A state judge cannot and should not claim such ignorance of the basic concept of equal protection under the law.

The motivation and/or motivations for a judge's prejudice are unimportant. The fact of and/or the appearance of prejudice is reason enough for the setting aside of such decisions.

Point II of this writ is centered in depth on the United States Supreme Court's justification for the Federal court guaranteeing constitutional rights deprived by a state court. The Court cites specific state abuses that are the obligation of Federal courts to rectify: -- "prejudice, neglect, intolerance or otherwise." Petitioner submitted to the District Court manifold documentation of his having been subjected indeed, by the state court to each and every one of these quoted abuses (JA 90, 93-95, 146, 176-177, 179, 181). Petitioner's amended complaint and supporting papers to the

District Court comprised fifteen hundred pages including some fifty exhibits (Record)

Respondent Justice Marbach submitted a motion via the New York State Attorney General allegedly supporting the contention that the allegations submitted by petitioner should be dismissed. The State Attorney General produced minutes of the hearing held before Justice Marbach on April 24 and April 25, 1974 (JA 73-147). The relevant portion of those court minutes reveal that Judge Marbach indeed had permitted himself to first be influenced by respondent attorney Dempsey to the extent of checking with the Appellate Division, Second Department as to the authenticity of attorney Dempsey's derogatory allegations against petitioner. The report received by Judge Marbach from the Appellate Division, Second Department was derogatory and colored the credibility of petitioner. Respondent attorney Dempsey asserts to Judge Marbach as follows:

"* * * I have had this not only in this Court your Honor. I had the

same situation in the past few weeks in the Appellate Division, where without any notice at all, when I got there, Mr. Terner said the same thing about this same Mr. Gottlieb and the Appellate Division said: 'Not a bit of it. You go on.' * * * (JA 93-94).

Judge Marbach stated as follows:

"THE COURT: I now learn, Mr. Terner, not that Mr. Gottlieb was retained the day before yesterday, but that you made that statement to the Appellate Division. I learned it not only from Mr. Dempsey, but I checked what happened on that appeal and learned that Mr. Gottlieb was being retained several weeks ago.

THE PLAINTIFF: Not on this case your Honor. * * *" (JA 93)

Only nine days before, on April 15, 1974, an order was signed by the Appellate Division, Second Department with respondent Justice James D. Hopkins presiding, which denied petitioner's appeal for a

motion for a new trial based upon court irregularities, perjuries, and newly discovered evidence in the New York State, Westchester County Court divorce litigation. Petitioner's amended complaint submitted to the District Court contains evidence of a personal and social relationship between respondents attorney James Dempsey and Judge Hopkins which was never revealed at that hearing nor did Judge Hopkins disqualify himself to provide petitioner the option of requesting a presiding state justice that did not have a social and personal relationship with respondent attorney Dempsey (A29-A30-A31-A32, A56-A57, A80).

This chain reaction bias of one court influencing another has nothing to do with retrying the case or insulating a judge from a lawsuit as a result of an alleged unfair decision. The clear issue presented here is deprivation of petitioner's constitutional rights because of prejudice and intolerance. Judge Knapp in his decision states:

" * * * Without being bound by the Ninth Circuit's 'primary objective' analysis, we find that Terner is earnestly here pursuing such federal rights as he may have. * * * " (A48)

Justice Marbach relieved the former counsel for petitioner and yet refused a few days of requested grace in order to have him represented by counsel of his choice. It is abundantly clear that respondent Judge Marbach admittedly concedes that he would have permitted petitioner the few days grace requested if Judge Marbach had not been negatively prejudiced by the New York State Appellate Division, Second Department with respondent Judge Hopkins presiding. Judge Marbach states:

"THE COURT: I have been given no affidavit of engagement. I have no proof that you even have an attorney -- outside of your word -- and while, under ordinary circumstances, I would accept your word, it is not enough for the record of this Court." (JA90)

Except for the examinations of the judicial patterns that denied petitioner his constitutional rights in New York State -- it would have made no difference whether Judge Marbach's prejudice emanated from Judge Hopkins, from attorney Dempsey or from a court maintenance worker. The fact is that Judge Marbach was indeed prejudiced and he has readily admitted that prejudice in the court minutes of subject case.

In furtherance of petitioner's claim of being subjected to state courts': -- "prejudice, neglect, intolerance or otherwise," -- many instances occurred wherein the respondent New York State judges acted in the aforesaid manner.

Respondent Justice Walsh on numerous occasions in open Court exhibited prejudice, neglect and intolerance toward petitioner, to wit:

" * * * THE COURT: No. It's a lot of nonsense -- no let it stand. I want the Appellate Court to see

THE FOLLOWING IS AN ATTEMPT TO PREVAIL UPON THE SENSE OF JUSTICE OF THIS COURT DESPITE THE FACT THAT PETITIONER'S PRESENT STATE OF HEALTH, CAUSED BY COURT PRESSURES, DID NOT PERMIT HIM TO PROCEDURALLY PRESENT HIS WRIT TO THIS COURT. BUT RATHER, PETITIONER MUST NOW RELY UPON THIS COURT'S SENSE OF JUSTICE BY ITS EXAMINATION OF THE HUNDREDS OF PAPERS PREVIOUSLY SUBMITTED TO THE FEDERAL COURTS BELOW AND COPIES OF WHICH ARE PRESENTED ALONG WITH THIS ADMITTEDLY INCOMPLETE WRIT FOR THE FILES OF THIS COURT.

This is as far as I have been able to proceed on this Writ because certain segments of the New York State Courts have debilitated my health to a point where they have made it impossible for me to properly function as a healthy human being because of their proven and documented campaign to silence forever my carefully researched and documented exposures of State Court malpractices as documented in my Court papers now being presented to the Supreme Court of the United States.

I ask that this Court judge the merits of this Writ not upon strength of argument contained in this Writ, but rather upon the reasonable conclusion to be arrived at as a result of a close examination of the papers being submitted to this Court as part of the Appendix herein and as part of the lower Court records being submitted together with this incomplete Writ -- incomplete because certain segments of the New York State Courts have indeed succeeded in finally "grinding out" a litigant who dared to "buck the establishment."

This is all I have to offer.

The Appendices to this Writ were submitted to the printer beforehand with the anticipation that a proper and complete complimenting argument could be included in time. Unfortunately, this is impossible and petitioner is presenting these papers as is for whatever they are worth. The case law and index herein do not contain page numbers. However, all of the case law referred to is contained in the

papers to the Federal Courts below including several cases cited in the Answering Brief of the Attorney General which can be seen in the Record of this case being delivered along with this incomplete Writ and which will hopefully substantiate that the proper place for review of my matters are indeed with this Court (See Attorney General's Brief For Appellee State Judges to the United States Court of Appeals for the Second Circuit, page 7.).

Unfortunately, I am only one man. I do not have the resources at my beck and call that my adversaries have. However, I believe that an honest reading of the papers being presented to this Court and submitted to the files of this Court will necessarily warrant a full review of the Constitutional issues contained within subject files.

Should this Court grant to me the right of reviewing what I feel has been an extreme injustice not only to petitioner but to millions of other Americans -- Petitioner trusts that between now and

the time of official review -- that his health shall be sufficiently recovered to properly present his case not only for some partial redress of what I have been subjected to, but also to perhaps eventually prevent other honest citizens from being utilized merely as "fair game" by the legal parasites who feed off the flesh of human sufferings.

Respectfully submitted,

William Terner, Pro Se
575 Madison Avenue (Rm. 1006)
New York, New York 10022

A P P E N D I C E S

APPENDIX I

Amended Complaint
(S.D.N.Y. 1975)

UNITED STATES DISTRICT COURT

Southern District of New York
75 Civ. 3673 W.K.

WILLIAM TERNER,

Plaintiff,

against

Hon JAMES D. HOPKINS, Justice of the Appellate Div. of the State of N.Y.; Hon. LEONARD RUBENFELD, J.S.C. of the State of N.Y.; JAMES DEMPSEY, Esq.; Hon. ALVIN R. RUSKIN, J.S.C. of the State of N.Y.; Hon. HAROLD L. WOOD, J.S.C. of the State of N.Y.; N.Y. State Sen. BERNARD G. GORDON, Chairman, N.Y.S. Judiciary Comm.; Hon. MARTIN B. STECHER, J.S.C. of the State of N.Y.; Hon. WM. A. WALSH, JR., J.S.C. of the State of N.Y.; JERALD S. KALTER, M.D.; Hon JOHN C. MARBACH, J.S.C. of the State of N.Y.; MILDRED TERNER; KRAFTCO CORP., and MFG. HANOVER TRUST CO. (Transfer Agents for Kraftco Corp.),

Defendants.

Plaintiff alleges:

THE PARTIES

1. Plaintiff is a citizen of the United States and resides in the Southern District of New York.

2. On information and belief, at all times herein the defendant Kraftco Corp. ("Kraftco") is a foreign public corporation and transacts business within the Southern District of New York.

3. On information and belief, at all times herein the defendant Manufacturers Hanover Trust Co. ("Manufacturers") is a national banking corporation with its principal place of business within the City of New York and more particularly within the Southern District of New York, and is the transfer agent for the publicly traded stock and securities of the defendant Kraftco.

4. At all times herein, the defendant Hon. John C. Marbach ("Judge Marbach") is a Justice of the Supreme Court of the State of New York and a citizen and resident of the Southern District of New York.

5. At all times herein, defendant Hon. Justice William A. Walsh, Jr., ("Judge Walsh") was and is a resident of Westchester County, State of New York and a duly elected Judge of the Supreme Court of the County of Westchester, State of New York.

6. At all times herein, defendant Hon. Justice Leonard Rubenfeld ("Judge Rubenfeld") was and is a resident of Westchester County, State of New York and a duly elected Judge of the Supreme Court of the County of Westchester, State of New York.

7. At all times herein, defendant Hon. Justice Alvin R. Ruskin ("Judge Ruskin") was and is a resident of Westchester County, State of New York and a duly elected Judge of the Supreme Court of the County of Westchester, State of New York.

8. At all times herein, defendant Hon. Justice Harold L. Wood ("Judge Wood") was and is a resident of Westchester County, State of New York and a duly elected Judge of the Supreme Court of the County of Westchester, State of New York.

9. At all times herein, defendant Hon. Martin B. Stecher ("Judge Stecher") and upon information and belief, was and is a resident of New York County, State of New York and a duly elected Judge of the Supreme Court of the County of New York, State of New York.

10. At all times herein, defendant Hon. James D. Hopkins ("Judge Hopkins") was and is a resident of Westchester County, State of New York and a duly appointed Justice of the Appellate Division, Second Judicial Department.

11. At all times herein, defendant James Dempsey ("Dempsey") was and is a resident of Westchester County, State of New York, is an attorney at law duly admitted to practice in the State of New York and a member of the law firm of Dempsey and Spring, P. C., White Plains, New York, and was retained by defendant Mildred Terner to represent her in a matrimonial litigation in New York State Supreme Court, Westchester County under Index Number 7920/1970.

12. At all times herein, defendant Bernard G. Gordon ("Gordon") was and is a

resident of Westchester County, State of New York, is a duly elected New York State Senator, an attorney at law duly admitted to practice in the State of New York, maintaining an office for the practice of law in Peekskill, New York, is the former counsel for plaintiff William Terner and upon information and belief, referred defendant Mildred Terner to defendant Dempsey who represented her in the matrimonial litigation referred to hereinabove.

13. At all times herein, defendant Jerald S. Kalter ("Kalter") was and is a resident of New York County, State of New York, is a medical doctor duly licensed to practice in the State of New York, and was named by plaintiff herein as the co-respondent in a divorce action between plaintiff William Terner and his former wife defendant Mildred Terner, and in due course said divorce action was tried in New York Supreme Court, Westchester County by defendant Judge Walsh without a jury.

14. At all times herein, defendant Mildred Terner was and is a resident of Westchester County, State of New York, and is the former wife of plaintiff William

Terner.

JURISDICTION

15. This action arises under the United States Constitution, particularly under the provisions of the Fourteenth Amendment ot the Constitution of the United States, and under Article VI of the Constitution of the United States. The matter in controversy exceeds the sum of $10,000.00 exclusive of interest and costs.

16. The jurisdiction of this Court is invoked under the provisions of Title 28 of the United States Code, Sections 1331, 1343, 2201 and 2202.

FACTS

17. An action for divorce was instituted by defendant Mildred Terner, former wife of plaintiff William Terner, in July, 1970, under index number 7920/1970, Supreme Court of the State of New York, County of Westchester, Defendant James Dempsey appeared of counsel for defendant

Mildred Terner and defendant Judge Walsh presided.

18. A trial of that action before defendant Judge Walsh was commenced on December 18, 1970 and after many trial dates spread over an extensive period of time and was concluded on November 29, 1972.

19. Defendant Judge Walsh rendered a judgment of divorce which was entered for Mildred Terner on May 24, 1973, and without the benefit of any financially supported testimony directed the payment of interim alimony of $300.00 per week, and an allowance to her counsel, defendant James Dempsey, of $15,000.00 as interim counsel fees and in addition, exclusive occupancy of the jointly held marital residence at 17 Cornell Street, Scarsdale, New York, to defendant Mildred Terner.

20. An appeal to the New York Supreme Court, Appellate Division, Second Department, was taken by plaintiff and was decided by said Appellate Court on December 31, 1973, affirming the decision of the lower Court, but expressly striking

the interim awards of alimony and counsel fees because no financial testimony was adduced at the trial in the lower Court. These issues were referred to Special Term, Part V, Westchester County Supreme Court for a hearing and final determination.

21. Financial hearings were held to determine alimony awards on May 29, 1974; May 31, 1974; June 24, 1974; June 25, 1974; and July 16, 1974, and a final order by defendant Judge Walsh was entered on October 31, 1974.

22. Said order directed that plaintiff herein pay his former wife Mildred Terner $300.00 per week alimony and that he pay her retroactive alimony awards of $300.00 per week as of May 24, 1973, aggregating $18,750.00 and retroactive child support of $50.00 per week as of May 24, 1973 to October 15, 1974 (the date when the one minor child at issue attained his majority of 21 years), aggregating $3,628.00; for a total of $22,378.00.

23. The above mentioned retroactive awards of alimony and child support were in addition to the amounts of monies plaintiff herein gave for support (upon

the advice of his counsel and the demands of the Court) either directly to or on behalf of his former spouse and his then minor son Andrew.

24. The amounts of monies given directly to or on behalf of plaintiff's former spouse and his then minor son over the period from July, 1970 to October 31, 1974, are in excess of $100,000.00.

25. During the summer of 1970, defendant Mildred Terner gave her attorney defendant Dempsey, the sum of $15,000.00 as a retainer to represent her in her forthcoming divorce action.

26. On June 30, 1975, a hearing was held in Westchester County Supreme Court, State of New York, before defendant Judge Walsh, on the issue of counsel fees.

27. On September 12, 1975, a judgment was rendered by defendant Judge Walsh awarding defendant James Dempsey a counsel fee of $50,000.00 to be paid by plaintiff herein on his former wife's behalf.

28. The above referred to counsel fee award was in addition to the original $15,000.00 paid to defendant Mildred Terner's attorney by defendant herself as

hereinabove stated.

29. The aggregate total of alimony awards both current, retroactive and previously paid (as of July, 1970), child support both paid and retroactive and counsel fee awards paid by defendant Mildred Terner herself to her attorney James Dempsey and subsequently ordered by defendant Judge Walsh for additional payments by plaintiff William Terner to defendant Mildred Terner's attorneys, is somewhere in excess of $200,000.00 of which amount, plaintiff was ordered to pay all but $15,000.00 which had already been paid by his former wife to her attorney.

30. In said divorce action, defendant Kalter was named as the co-respondent and ever since an admitted clandestine rendezvous date on September 11, 1970, and up until the very present, defendant Kalter continues to have an ongoing intimate and meretricious relationship with defendant Mildred Terner.

31. Defendant Kalter in his open and notorious relations with Mildred Terner humiliates, mortifies and mentally distresses plaintiff William Terner in front

of his family, neighbors and friends by constantly being present and seen at the subject former marital residence and which residence plaintiff maintained a long time office. Plaintiff had been compelled by the Courts of New York State to support the former marital residence and his former office for the comfort and pleasures of plaintiff's former wife and defendant Kalter. There are no children under the age of 21 years.

32. Defendant Mildred Terner has now sought to have the New York State Westchester County Supreme Court sequester plaintiff William Terner's assets.

33. Plaintiff herein cross-moved the Court to determine if Mildred Terner and defendant Kalter were either married or notoriously holding themselves out as husband and wife living intimately and travelling together within the State of New York, out of the State, and out of the Country.

34. In an order dated September 3, 1975, defendant Judge Rubenfeld granted defendant Mildred Terner's application for a sequestration hearing and denied plain-

tiff William Terner's application for submission of evidence and the taking of testimony regarding the relationship between his former spouse and her aforenamed constant companion defendant Kalter.

35. A hearing on defendant Mildred Terner's application for sequestration was held before Judge Harold L. Wood on November 10, 1975, with William Terner appearing pro se. The Judge directed the Dempsey firm to submit a proposed order in connection with an order to show cause to sequester all of the property and assets of the plaintiff herein. That proposed order had been submitted to Judge Wood on November 19, 1975, which called for entry on November 24, 1975. The short form order of Judge Rubenfeld entered on September 3, 1975 stated -- "Upon the foregoing papers it is ordered that this motion shall be set down for a hearing on the issues of the amount of the alleged arrears and the plaintiff's alleged delay of the sale of the marital home, and for determination upon the filing of a note of issue, payment of appropriate fees and the service of a copy of the note of

issue and of this order upon the clerk of Special Term, Part V.

The defense predicated upon Section 248 of the Domestic Relations law is dismissed for failure to supply sufficient factual support to warrant a hearing on the issue."

35. a. Defendant Judge Wood refused to hear the house issue, a part of the Judge Rubenfeld order; refused to grant to me a few days time to answer an ORDER TO SHOW CAUSE that I received the Saturday before the scheduled Monday morning hearing despite that ORDER TO SHOW CAUSE calling for modification in the sequestration hearing and those modifications had never been before Judge Rubenfeld prior to his signing subject order; refused to accept my own ORDER TO SHOW CAUSE dealing with sequestration which defendant Judge Ruskin had also refused to accept or to even look at over a month before; refused to accept documentary proof including an attorney's affidavit as to the improprieties in Judge Ruskin's Court; refused to give any consideration to the fact that my adversaries had acknowledged receipt of service of my ORDER TO SHOW CAUSE a

month before -- and this was confirmed before Judge Wood at that sequestration hearing; refused to give any consideration to my having advised him that Judge Ruskin told me to go to Federal Court if I wanted a stay -- which I did; refused to give me the right to examine or to cross-examine my adversaries; refused to grant to me any opportunity for me to get an attorney's opinion on the agenda of said hearings which was before Judge Wood at the time and upon which a vital interpretation disagreement existed; refused my request to have an attorney examine the minutes of that sequestration hearing in order that an attorney could prepare and submit upon my behalf a Memorandum of Law predicated upon the minutes.

b. About a week after that sequestration hearing the Dempsey firm submitted a proposed order which called for entry on November 24, 1975, and which was actually filed on December 1, 1975. This order was signed by Judge Wood exactly as presented to him by the Dempsey firm and the signed order is obviously a photocopy of that proposed order except for a counsel

fee having been added for that approximately half-day Court hearing that was abruptly concluded by Judge Wood. That order calls for my total sequestration. The Dempsey firm took immediate positive steps based upon said order.

36. No practical relief can be had other than to utilize the Federal Court as a tribunal for the serious allegations being made here. In the New York State 1974 Legislative Manual ("The Blue Book") on page 927, members of the Temporary State Commission on Judicial Conduct are listed. A paragraph defining that Commission's function is as follows:

"The Commission is empowered to receive and investigate complaints against any Judge of a unified Court system: to commence investigations on its own initiative, and where appropriate, to recommend disciplinary action including the convening of the Court of the Judiciary." It is shown on said page that the two members appointed to that Commission by the Chief Judge, of the Court of Appeals of the State of New York are:

Judge James D. Hopkins;
and
Judge Ann T. Mikoll

Both of these Judges, who were especially appointed to look into Judicial misconduct, have a personal and social relationship with attorney/politician James Dempsey. This is supported by documented evidence. To ask a Judge to rule upon his own misconduct or upon the misconduct of close associates is, to say the least, naive.

FIRST COUNT

37.(a) Defendant Judge Hopkins was the Appellate Division, Second Department Presiding Judge and signed an order denying plaintiff a motion for a new trial on April 15, 1974. Defendant Judge Marbach cites derogatory comments made to him about plaintiff by the Appellate Division, Second Department only a week later. The motivation for Judge Marbach's checking with the Appellate Division, Second Department concerning plaintiff's credibility was brought about by derogatory comments made by defendant James Dempsey concerning

that Appellate Division's opinion of plaintiff. Judge Marbach permitted himself to be influenced and biased by the Second Department's report to him of their opinion of plaintiff. Only a few weeks later, Judge Hopkins as well as Judge Mikoll were lavishly entertained by defendant James Dempsey at Mr. Dempsey's Peekskill, New York estate. Neither James Dempsey, who argued against plaintiff before the Appellate Division, Second Department on plaintiff's motion for a new trial nor Judge Hopkins revealed any personal or social relationship which is required by the Canons of Judicial Ethics in order to not conceal possible influencing factors on Court decisions and/or Court procedures. In fact, it was Judge Hopkins who denied plaintiff counsel of his choice and in effect, although proper application was made in accordance with accepted procedures - plaintiff herein was forced to either go pro se or to be represented by a young man barely out of law school. Plaintiff's adversary, indeed, at that Appellate hearing was the seasoned and influential attorney/politician

James Dempsey.

(b) Judge Hopkins should either have disqualified himself or revealed in open Court his personal and social relationship with attorney Dempsey to give plaintiff an opportunity of requesting a presiding Justice without a personal and social relationship with any interested party; one who would not be subject to possible bias or influenced by sympathetic leanings. This would include friendly associate justices who might have personal or political interests in common with any of the litigating parties and/or trial attorneys before them.

(c) An attorney usually relies upon favorable decisions and/or favorable counsel fee awards which, in effect, control that attorney's financial fortunes. When an attorney lavishly entertains Judges (no doubt declaring same as business deductions), that attorney is misusing the basic concepts of Judicial ethics.

(d) The net result is to unfairly burden unsophisticated taxpayers for a larger than equitable tax liability. The I.R.S. codes certainly should not be

stretched even by "Judicial discretion" for a practicing attorney to deduct business expenses by entertaining Judges he practices before and who control his fee awards. A lawyer entertaining clients or prospective clients is one thing; a lawyer entertaining Judges is different. Practically, this neat procedure makes plaintiff and countless other taxpayers and litigants pay for unfavorable decisions to them.

(e) It has taken plaintiff five years to discover the magic of attorney Dempsey's stunning legal victories and one can only speculate as to how many "less probing victims" have had to simply "grin and bear it."

SECOND COUNT

38. Defendant Judge Rubenfeld by his decision dated September 3, 1975, precluded plaintiff William Terner from questioning defendant Mildred Terner at a sequestration hearing about her alleged remarriage to defendant Kalter. Judge Rubenfeld was also a guest at defendant

Dempsey's tent party on June 22, 1974, and did not reveal his personal and social relationship with attorney Dempsey. Despite that relationship, defendant Judge Rubenfeld decided an order to show cause brought on by Mildred Terner in the case of Terner v. Terner, Index Number 7920/1970 (Westchester County Supreme Court) and ordered a hearing for a sequestration of plaintiff's assets as well as denying plaintiff's request for the hearing to include the intimate and ongoing relationship between defendants Mildred Terner and Kalter w which could have negated any alimony and support awards. Defendant Judge Rubenfeld, in deciding this motion, never disclosed his personal and social relationship with defendant Dempsey, attorney for defendant Mildred Terner.

THIRD COUNT

39. Defendant attorney James Dempsey improperly had not revealed his role as a lavishly entertaining host of Judges before whom he practices. Nor did he refuse to undertake the assignment of representing

defendant Mildred Terner while full well knowing that his close personal and political ally, N.Y.S. Senator Bernard G. Gordon, who led her to him, had been counsel to plaintiff herein. Dempsey full well knew before hand the intimate legal details of the impending litigation and therefore, should properly have declined this referral client. In fact, the legal professional Codes of Ethics not only dictate that he should have refused counsel under those conditions -- but he was and is not entitled to some $65,000.00 of legal fees of which $50,000.00 is presently Court awarded for which he is looking forward to receiving via sequestration of the assets of plaintiff herein.

FOURTH COUNT

40. Judge Alvin R. Ruskin was hearing motions at Special Term, Part V. N.Y. Westchester County Supreme Court on October 6, 1975. An ex-parte application was attempted to be submitted to him upon plaintiff's behalf which Judge Ruskin refused to receive and/or even consider --

although the adversary party had been previously served -- merely as a courtesy -- which Judge Ruskin was aware. Judge Ruskin refused to even look at the motion papers, commenting that if plaintiff herein wished relief -- he would have to go to the Federal Court -- which plaintiff herein did, in fact, do. Judge Ruskin refused a properly made beforehand request to have a Court reporter transcribe the proceedings before him. Judge Ruskin complied with the Dempsey firm's various requests while assuming an intemperate posture towards plaintiff's interests presented at that time.

FIFTH COUNT

41.(a) On November 10, 1975, plaintiff appeared pro se at a scheduled sequestration hearing at Special Term, Part V N.Y.S. Westchester County Supreme Court and Judge Wood was presiding. I advised Judge Wood that I had made an oral application to your Honor in Federal Court for a stay of the sequestration hearing that was denied. I requested of Judge Wood

that he accept my ex-parte order to show cause application for a stay that had been previously refused to be received by Judge Ruskin. Judge Wood refused. Judge Wood asked plaintiff what the Federal action was about and plaintiff so advised him.

(b) Plaintiff then requested that Judge Wood accept documentations including an affidavit of the happenings that had taken place before Judge Ruskin. Judge Wood refused.

(c) Plaintiff advised Judge Wood that he had received an order to show cause from the Dempsey firm by mail only two days before and that that order referred to issues not contained within the Judge Rubenfeld sequestration hearing order.

(d) Plaintiff further requested that the new issues should not properly be heard without Judge Wood ruling on the propriety of hearing the new issues that same day or more properly at a later time.

(e) Judge Wood denied this application.

(f) Plaintiff asked Judge Wood if he would instruct the Dempsey law firm to now respond to my ex-parte order to show cause that I had tried unsuccessfully to submit

to Judge Ruskin -- especially since the Dempsey firm had acknowledged service over a month before and they were completely familiar with all of the facts. Judge Wood refused this request.

(g) Plaintiff advised Judge Wood that there could be no financial harm to my adversaries by the granting of a short adjournment to consider the merits of the issue since my ex-parte application papers contained proof that James Dempsey had received upon defendant Mildred Terner's behalf instantly negotiable checks and liquid assets amounting to approx. $30,000.00 while both defendant's Dempsey and Mildred Terner in sworn to affidavits after having received such funds -- stated that Mildred Terner was indigent.

(h) Paragraph #35 hereinabove contains the exact wording of the Judge Rubenfeld order which was to be the subject of the sequestration hearing. Judge Wood acquiesced to the Dempsey firm's request to not give in to the house issue although clearly defined as part of the agenda for the sequestration hearing. In fact, the record of that hearing clearly shows that

the Dempsey firm confirmed my previous contention that my appraisers access to the house was harassingly being frustrated. The Dempsey firm further stated that they would only grant my appraisers access to the former marital residence only if I agreed to drop litigation wherein I contend that I am the full owner of subject house.

(i) Judge Wood further refused to grant me the option of securing counsel to define the intent of Judge Rubenfeld's order and also denied me the right to submit a memorandum of law prior to his rendering a decision.

(j) The proceedings that day were concluded by Judge Wood without my having had an opportunity to cross-examine or even to rebut adversary allegations.

(k) Judge Wood instructed the Dempsey firm to submit a proposed order based upon their "surprise" order to show cause which in fact they did submit on November 19, 1975, which was to be submitted to Judge Wood according to the Dempsey firm "back" on November 24, 1975.

SIXTH COUNT

42.(a) Defendant N.Y. State Senator Gordon violated his attorney/client relationship with me. He had previous knowledge of the domestic problems and was aware that an imminent divorce was apparent. Gordon, as my attorney, had known intimate details of my domestic problems and wished to refer me to attorney Dempsey. I advised Gordon that I had another attorney in mind by the name of I. Erdheim. Gordon then led my then wife to Dempsey. There is evidence of several violations by Gordon of an attorney/client relationship. Additionally, it was revealed that the co-respondent -- whose identity was finally ascertained a month or two after the official divorce proceedings were instituted against plaintiff herein that the co-respondent -- Dr. Kalter -- had been a long time family physician. It appears that aside from referral fee considerations -- which Gordon knew he could not engrandize himself from me -- that there may have been other personal considerations for

co-respondent Kalter, motivating him to "throw his political clout" behind my adversaries.

(b) There were other "Strange Happenings" concerning Gordon which will be dealt with at a later time.

SEVENTH COUNT

43.(a) Judge Martin B. Stecher precluded plaintiff William Terner from making any motions in New York County Supreme Court in a related case without first obtaining Judge Stecher's permission. He also excused Mildred Terner from answering detailed interrogatories concerning her attorney/client relationship with New York State Sen. Gordon, Chairman of the New York State Judiciary Committee. Prior to the submission to Mildred Terner of the approximately fifty (50) detailed questions to be answered -- that conspiracy case (Index Number 22772/72, New York County Supreme Court) progressed in an orderly fashion.

(b) Additionally, Judge Stecher rendered a decision which I am advised is

in violation of my Federal Constitutional rights -- in which he required me to "clear with him" before submitting any further motions.

Judge Stecher further referred to letters that he had received from my adversaries in his decision and accepted the contents of those letters as facts since he did not even bother to give plaintiff herein the courtesy of being made aware of the contents of subject letters -- although he cited his end result conclusion in his decision predicated upon those letters.

EIGHTH COUNT

44. a. Defendant Judge Walsh was the trial Judge at the divorce litigation in Westchester County Supreme Court, Terner v. Terner, Index Number 7920/1970. That trial spanned well over two years and it consisted of seventeen days broken up in small pieces. There was over 2,300 pages of testimony. Judge Walsh received from plaintiff herein at the end of the divorce litigation a 106 page Memorandum of Law

along with a 530 page motion for a new trial or in the alternative a reopening of the litigation. Despite the approximately 700 pages (including exhibits) that were presented to Judge Walsh for his consideration in adjudicating the issues, Judge Walsh rendered a lengthy decision in four (4) working days after his receipt of the approximately 700 pages of the motion for a new trial or to reopen and brief of plaintiff herein. Logic dictates that it would take longer than that just to read the papers aside from deciding and dictating the lengthy decision rendered.

b. In that motion for a new trial, issues were presented that included Judge Walsh having excused without notice to plaintiff herein at least two subpoenaed witnesses who would have confirmed charges of alleged perjuries committed by adversary witnesses. In addition, there was a presentation of newly discovered vital evidence. Also, there was evidence presented that strongly supported my contentions that actual adversary testimony

was not only perjurious, but that that perjurious testimony had actually been cited by Judge Walsh as fact in his rendered decision. Judge Walsh denied without any explanation that motion for a new trial or to reopen. Considerable collateral litigation was required to document the evidence presented at that time. Judge Walsh was oftentimes intemperate. He constantly referred to making a record for an appeal which indicated that he must have had his mind made up ahead of time that he was going to rule against me. Judge Walsh awarded attorney Dempsey a $15,000.00 legal fee without the benefit of a financial hearing of plaintiff herein.

c. Judge Walsh expressed a complete lack of consideration for my extensive financial liabilities including substantial I.R.S. taxes made necessary by vast liquidations to comply with his astronomical awards both to my ex-spouse defendant Mildred Terner and to attorney Dempsey. In fact, when I attempted to present the extent of I.R.S. obligations brought about by these litigations -- Judge Walsh stated that he was not interested in the I.R.S.

I requested permission to have the I.R.S. explain in Court the extent of subject liabilities brought about by litigation spawned forced sale of assets and Judge Walsh flatly refused to even entertain that matter.

d. Judge Walsh was presented with conclusive evidence that my former spouse had been stealing my financial records since she actually presented my own original records to Court as her evidence. Judge Walsh refused to give any consideration whatsoever to the complicated problems that Plaintiff was beset with because of that stealing and tens of thousands of dollars of fraudulent divorce oriented charges run up by my former spouse.

e. It is curious, to say the least, that Judge Walsh awarded attorney Dempsey a $50,000.00 legal fee (on top of Dempsey already having received an additional $15,000.00) and the $50,000.00 was exactly the same figure that attorney Dempsey requested in Judge Walsh's chambers as his price for not holding counsel fee award hearings.

f. Judge Walsh state apologetically on

the Court record to attorney Dempsey that he (Judge Walsh) had (unsuccessfully) tried to get him a fee earlier.

g. Defendant Judge Walsh denied me access to my former place of business which was contained in a portion of the residence set aside for that purpose and was where I kept all of my records thereby causing serious complicated burdens upon me in addition to extra unnecessary financial encumberances.

h. There were numerous contradictions and inconsistencies in Judge Walsh's decisions which usually were practically verbatim to requests made by attorney Dempsey.

NINTH COUNT

45. a. Defendant Kalter, the named co-respondent in the divorce litigation, committed clear vital perjuries, suborned evidence, and engaged in conspiracy, all of which was clearly documented in collateral litigation. That evidence was made a part of a motion for a new trial or in the alternative to reopen, that was

submitted both to defendant Judge Walsh and to the Appellate Division, Second Department when defendant Judge Hopkins was the presiding Judge. Defendant Kalter made a substantial contribution to my having been denied equal protection under the laws in certain segments of the New York State Courts.

TENTH COUNT

46. a. Defendant Judge Marbach was the presiding Judge in N.Y.S. Supreme Court, Westchester County in an action entitled William Terner against Mildred Terner and Kraftco Corp., Index Number 1309/71. Defendant Judge Marbach permitted himself to first be influenced by attorney Dempsey to the extent of checking with the Appellate Division, Second Department as to the authenticity of attorney Dempsey's derogatory allegations against plaintiff. The report received by Judge Marbach from the Appellate Division, Second Department was derogatory to plaintiff William Terner. Only nine days before, on April 15, 1974, an order was signed by the Appellate

Division, Second Department with defendant Judge Hopkins presiding, which denied William Terner's appeal for a motion for a new trial based upon Court irregularities, perjuries, and newly discovered evidence in the New York State, Westchester Court divorce litigation entitled Terner v. Terner, Index Number 7920/1970. This Amended Complaint contains evidence of a personal and social relationship between attorney Dempsey and Judge Hopkins which was never revealed at that hearing nor did defendant Judge Hopkins disqualify himself. Defendant Judge Marbach permitted the Appellate Court presided over by defendant Judge Hopkins to color the credibility of plaintiff William Terner. This is clearly reflected in subject minutes. This chain reaction bias of one Court influencing another has nothing to do with retrying the case or insulating a Judge from a lawsuit as a result of an alleged unfair decision. The issue here is deprivation of plaintiff's Constitutional rights because of bias. Judge Marbach relieved attorney Irving I. Erdheim of Erdheim, Shalleck and Falk of N.Y.C., the former

counsel for plaintiff and yet refused a few days of requested grace in order to have plaintiff represented by counsel of his choice.

b. More complete details of this are contained within the original action in this Court entitled William Terner, plaintiff, against KRAFTCO CORP., MANUFACTURERS HANOVER TRUST CO. (Transfer Agents for KRAFTCO CORP.), HON. JOHN C. MARBACH, Justice of the Supreme Court of the State of New York, and MILDRED TERNER, defendants, bearing this same docket number and more particularly plaintiff's AFFIDAVIT IN OPPOSITION submitted to this Court on December 10, 1975, contains all the pertinent facts in addition to my NOTICE OF MOTION FOR LEAVE TO APPEAL WITH PAPERS AND BRIEF IN SUPPORT THEREOF which was submitted to and denied by the N.Y.S. Court of Appeals.

c. Judge Marbach deprived me of my Constitutional rights, due process of law and equal protection of the laws -- in this case, fair and unbiased hearings.

ELEVENTH COUNT

47. a. Defendant Mildred Terner engaged in conspiracies, suborning of evidence and the attempted suborning of a witness, in addition to perjuring herself at trial. She engaged in larcenous acts of stealing my financial records and indiscriminate divorce oriented pledgings of my credit involving tens of thousands of dollars. She engaged in fraudulent acts designed to enrich herself and to pauperize me such as charging substantial purchases and having her relatives return those purchases for cash credits. This was all documented at trial. The harassing effect of those acts along with the literally dozens of resulting litigations has made a major contribution to the overall denial of my Constitutional rights in certain segments of the New York State Courts.

TWELFTH COUNT

48. a. Defendant Kraftco Corp. had been advised in writing on at least four

occasions not to release any accrued dividends and assets in connection with the shares represented by the Kraftco stock certificates V99742; V0111460; V11079; V0125446 and certificates reissued for same. Kraftco's counsel, Sullivan and Cromwell as well as Kraftco's Transfer Agent, Manufacturers Hanover Trust Co. were duly served on July 28, 1975, with a copy of the within action and were put on further notice to comply with previous correspondence on this same subject. Yet, on July 31, 1975, accrued dividends and subject common stock shares were turned over to defendant Dempsey for the account of defendant Mildred Terner. The covering letter from Manufacturers Hanover for that transfer of some $30,000.00 of cash and liquid assets was included as an Exhibit in the Order To Show Cause motion that defendant Judge Ruskin denied and even refused to read. Therefore, both Kraftco Corp. and Manufacturers Hanover Trust Co. (as Transfer Agents) made a contribution to my denial of Constitutional rights in N. Y. State.

THIRTEENTH COUNT

49. a. Defendant Manufacturers Hanover Trust Co. had been advised in writing on at least four occasions not to release any accrued dividends and assets in connection with the shares represented by the Kraftco stock certificates V99742; V0111460; V11079; V0125446 and certificates reissued for same. Manufacturers Hanover Trust Co. as well as Kraftco's counsel, Sullivan and Cromwell were duly served on July 28, 1975, with a copy of the within action and were put on further notice to comply with previous correspondence on this same subject. Yet, on July 31, 1975, accrued dividends and subject common stock shares were turned over to defendant Dempsey for the account of defendant Mildred Terner. The covering letter from Manufacturers Hanover for that transfer of some $30,000.00 of cash and liquid assets was included as an Exhibit in the Order To Show Cause motion that defendant Judge Ruskin denied and even refused to read. Therefore, both Manufacturers Hanover Trust Co. (as Transfer Agents) and

Kraftco Corp. made a contribution to my denial of Constitutional rights in N. Y. State.

FOURTEENTH COUNT

50. a. Defendants herein have denied plaintiff his Constitutional rights as guaranteed to him in the Constitution of the United States.

FIFTEENTH COUNT

51. Plaintiff alleges that in doing the acts and things above complained, defendants became part of a conspiracy to deny and deprive him of his Constitutional rights.

SIXTEENTH COUNT

52. That the said acts of the defendants irreparably damaged, impaired, deprived the plaintiff's Constitutional rights and remedies and that the said acts continue in the case of Terner v. Terner and the plaintiff has no adequate remedy at law in the Courts of New York State.

SEVENTEENTH COUNT

53. That in addition to the flagrant Constitutional violations, that there were serious violations of the Canons of Judicial Ethics and flagrantly unethical professional conduct all of which contributed to the denial of plaintiff's Constitutional rights including the Fourteenth Amendment.

EIGHTEENTH COUNT

54. Plaintiff alleges that as the direct consequences and result of the acts of the defendants hereinabove complained of, plaintiff suffered serious injuries both physical and mental, and will in the future suffer great pain and has sustained severe nervous shock with resultant nervous injuries and certain of said injuries are of a permanent nature.

NINETEENTH COUNT

55. Plaintiff has suffered great humiliation and embarrassment; severe injury to his reputation and business affairs;

all of which have required and will require the expenditures of large sums of money as and for medical care and treatment and his attempts to re-establish his business profits and prestige.

TWENTIETH COUNT

56. Each of the defendants, individually and in effective concert with the others, acted under pretense and color of law in their official and otherwise capacities, but said acts were without authorization of law and in abuse of their powers, and each defendant acted wilfully, knowingly and with specific intent to deprive plaintiff William Terner of his equal protection under the laws and procedural due process and which rights are secured to him by Article VI and the Fourteenth Amendment to the Constitution of the United States.

TWENTY-FIRST COUNT

57. By reason of all of the foregoing, plaintiff has been deprived of a full

and fair hearing on the merits and his rights under the Constitution of the United States have been substantially infringed and violated.

WHEREFORE, plaintiff respectfully requests judgment against defendants, and each of them as follows:

1. Granting injunctive relief to plaintiff and therefore enjoining both temporarily and permanently any of the defendants from enforcing or effectuating any of the orders or judgments entered or to be entered in the case of Terner v. Terner, in the Supreme Court, Westchester County, N.Y.S., Index Number 7920/1970 and enjoining any further proceedings therein until the completion of this action.

2. Granting a judgment declaring all prior proceedings in the said case of Terner v. Terner null and setting same void and granting unto plaintiff a new trial in the above action in a venue outside the Courts of the State of New York.

3. Granting unto the plaintiff a money judgment in an amount to be determined by

this Court as compensatory damages.

4. Granting unto the plaintiff a money judgment in an amount to be determined by this Court as punitive damages.

5. Granting unto the plaintiff reasonable legal and legal related fees including disbursements, together with all Court costs and expenses.

6. Granting unto the plaintiff such other other and further relief as the Court may deem proper.

/S/ WILLIAM TERNER.

WILLIAM TERNER,
Pro Se
575 Madison Avenue
New York, New York
10022
(212) PLaza 9-6700

Dated: New York, New York
December 30, 1975

APPENDIX II

Opinion of Knapp, J.
(S.D.N.Y. 1976)

UNITED STATES DISTRICT COURT

Southern District of New York
75 Civ. 3673 W.K.

WILLIAM TERNER,

Plaintiff,

against

KRAFTCO CORP., MANUFACTURERS HANOVER TRUST CO. (Transfer Agents for Kraftco Corp.), HON. JOHN C. MARBACH, JUSTICE OF THE SUPREME COURT OF THE STATE OF NEW YORK, and MILDRED TERNER,

Defendants.

Appendix II--Opinion of Knapp, J.

Appearances:

WILLIAM TERNER, Pro Se

N.Y. State Attorney General,
Attorney for Respondent State Judges

Appendix II--Opinion of Knapp, J.

KNAPP, D.J.

Plaintiff, appearing pro se, has brought this civil rights action pursuant to 42 U.S.C. §1983, alleging a denial of due process in various state court proceedings concerning his divorce from Mildred Terner. The action is for money damages and for injunctive relief staying the state court proceedings. One of the defendants, Hon. John C. Marbach, Justice of the New York Supreme Court, moves to dismiss the complaint for failure to state facts entitling plaintiff to any relief. Plaintiff cross moves for leave to file an amended complaint.

Plaintiff's motion to file an amended complaint is hereby granted. In sum, the amended complaint expands the number of defendants to include seven additional members of the New York State judiciary, the co-respondent in the divorce action and the attorney who represented the ex-wife. The new factual allegations similarly amplify the underlying claim.

Appendix II--Opinion of Knapp, J.

Justice Marbach argues that the complaint should be dismissed on any of the following grounds: that judicial immunity protects him from suit, that §1983 was not intended to permit collateral attack on state court judgment, res judicata and the Rooker doctrine. Each of these grounds is inapposite.

Plaintiff has requested an injunctive relief as well as money damages, and to that extent the doctrine of judicial immunity is inapplicable. Law Students Civil Rights Research Council, Inc. v. Wadmond (S.D.N.Y. 1969) 299 F.Supp. 117, affd. 401 U.S. 154 (1970). Other courts have commented in passing that §1983 should not be used to provide collateral review of state court judgments. However, we have found no authority suggesting that as a matter of law a well-supported claim of denial of due process could not be brought under §1983. Defendant relies on Pierre v. Jordan (9th Cir. 1964) 333 F.2d 951, where the court found that the plaintiff's primary objective was to

obtain collateral review of a state court decision rather than to obtain redress of a deprivation of federal rights. Without being bound by the Ninth Circuit's "primary objective" analysis, we find that Terner is earnestly here pursuing such federal rights as he may have. With respect to defendant's contentions concerning res judicata and Rooker v. Fidelity Trust Co. (1923) 263 U.S. 413, we simply observe that plaintiff's essential claim is the alleged corruption of judicial officers before whom he appeared. In view of the ultimate disposition of this motion, it is unnecessary for us to determine whether and to what extent such a claim is appropriately litigated in state court.

Plaintiff has applied for a stay of the state court sequestration order against him, and in support of that application he has submitted a detailed statement of his claim supported by voluminous documentation of his various state court proceedings. As a result we

have an ample record upon which to examine his claim that he was denied due process of law, and we have treated defendant's Rule 12(b) motion to dismiss as a Rule 56 motion for a summary judgment.

Accepting as true all the facts set forth in plaintiff's four-part affidavit, we are constrained to conclude that they do not establish that plaintiff has been deprived of due process of law or any other right cognizable under the Constitution of the United States. Plaintiff's affidavit describes a matrimonial dispute of exceeding bitterness even by the standards we have unhappily come to treat as normal in that type of controversy. As usual in such situations, each side accuses the other of perjury and overreaching. The claims of the plaintiff in this federal litigation (the unsuccessful husband in the state courts) can be grouped under the following heading (as nearly as possible in chronological order, not necessarily in plaintiff's order of

importance);

a) In the basic divorce action, the trial judge unreasonably rejected the husband's counterclaim of adultery;

b) The court unreasonably and without adequate consideration rejected various applications for rehearing and a new trial;

c) The court granted the excessive allowance to the wife and excessive counsel fees to her lawyers;

d) Various courts - including the Appellate Division - unreasonably refused adjournments to permit him to substitute new lawyers of his choice;

e) All the foregoing events can be explained by the circumstances that the wife's lawyer's friendship with various judges was so close as to suggest corruption.

As plaintiff himself appears to realize, it would be almost impossible to envisage claims (a) through (d) - either singly or in combination - assuming constitutional proportions unless the

facts marshalled under claim (e) were sufficient to support a charge of official corruption. Examination of those facts discloses that they are simply insufficient to support such a charge. These accusations boil down to the following: the wife's lawyer is in the habit of lavish entertainment and his parties are frequented by judges, among others; he is on a first name basis with many judges; the Governor has appointed him to a committee to screen candidates for the bench (a fact which presumably might influence judges hoping for promotion); and, finally, that he is known as a political lawyer with close friends in all segments of the political system. However, there is no fact alleged to suggest that the lawyer ever made a corrupt contribution to any judge, or that he - with the claimed exception of the instant litigation - ever obtained a judicial decision to which the law and the facts did not entitle him.

All in all, the record satisfies us

that plaintiff has alleged no colorable claim under the Constitution of the United States. His complaint - as amended - is accordingly dismissed. Since the foregoing considerations invalidate the complaint as to all defendants, it is dismissed as to all.

SO ORDERED.

Dated: January 7, 1976

/s/ Whitman Knapp
U.S.D.J.

APPENDIX III

Opinion of Second Circuit

UNITED STATES COURT OF APPEALS

For The Second Circuit

(Argued October 27, 1976.,
Decided October 27, 1976)

Docket No. 76-7091

WILLIAM TERNER,

Plaintiff-Appellant,

v.

HON. JAMES D. HOPKINS, et. al.,

Defendants-Appellees.

Before:

LUMBARD, VAN GRAAFEILAND and BONSAL,
Circuit Judges.

Appendix III--Opinion of Second Circuit

Appeal from the United States District Court for the Southern District of New York.

This is an appeal from an order of the District Court granting summary judgment in favor of the defendants under Fed. R. Civ. P. 56. Appellant, an unhappy, unsuccessful litigant in a New York State matrimonial action, alleges a conspiracy among the defendants to deprive him of equal protection and due process. The District Court found appellant's claims to be conclusory and without factual support.

We affirm. See Powell v. Workmen's Compensation Board, 327 F.2d 131, 137 (2d Cir. 1964).

APPENDIX IV

AFFIDAVIT of Private Investigator John V. Esposito dated November 7, 1975, which is the result of extensive investigation based upon automobile registration plates recorded on June 22, 1974 on the James Dempsey estate in Peekskill, New York during a party. The first AFFIDAVIT was sworn to by Mr. Esposito on July 26, 1974, and is contained along with this AFFIDAVIT in the Joint Appendix pages 55 thru 57. The AFFIDAVIT comprising APPENDIX IV is the result of extensive follow up investigation based upon subject license plates recorded and is also in Joint Appendix pages 45 thru 54.

SUPPORTING AFFIDAVIT OF JOHN V. ESPOSITO
Dated November 7, 1975

STATE OF NEW YORK)
COUNTY OF ULSTER) S.S.
TOWN OF MARLBOROUGH)

JOHN V. ESPOSITO, being duly sworn, deposes and says,

I am employed as President of Intra-

Appendix IV--Affidavit of John V. Esposito

State Investigation Services, Inc., a New York State licensed private investigation firm located at Old Court House Building, Marlboro, New York.

On June 22, 1974, I was parked on Crompond Road, Peekskill, New York in the vicinity of the James Dempsey estate, with William Bomba, an investigator also employed by Intra-State Investigation Services, Inc.

I observed that a large tent was erected on a portion of the Dempsey estate which was partially screened from my view by trees and hedges.

Between the hours of 4:40 p.m. and 8:00 p.m., vehicles bearing the following listed New York State registration plates were observed parking on the street near the entrance to the Dempsey estate and entering and leaving the property.

(#1.) JSC-9	(#4.) JSC-193	(#7.) JSC-174
(#2.) USJ-8	(#5.) JSC-220	(#8.) SCJ-36
(#3.) JSC-269	(#6.) FCJ-96	(#9.) JSC-237
(#10.) 59	(#13.)(NY)17	(#16.)FRR-34
(#11.) WP-13	(#14.) MFG-6	(#17.)RAE-34
(#12.) EMA	(#15.) CHW	(#18.) CD-87
(#19.) HSL-7	(#22.) MJ-399	(#25.) RHH
(#20.) VV-8	(#23.) MAC-18	(#26.) 50-RC
(#21.) 30-MN	(#24.) 63-PUP	(#27.) TD-22
(#28.) 60-VVX	(#31.)982-VVB	(#34.)MD36976
(#29.)399-PLP	(#32.)577-WPP	(#35.)282-WTN
(#30.)404-NRC	(#33.)914-QTK	(#36.)290-ALB
(#37.)238-WTQ	(#40.)430-OGT	(#43.)193-RJS
(#38.)274-YKC	(#41.)289-KZU	(#44.)890-WKM

Appendix IV--Affidavit of John V. Esposito

(#39.)303-YKD	(#42.)627-KSW	(#45.)614-WHY
(#46.)140-DFO	(#49.)120-YKF	(#52.)941-TAF
(#47.)383-RTQ	(#50.) 645-KFG	(#53.)334-PUY
(#48.)323-WPZ	(#51.)FC-1128	(#54.)95-KYX
(#55.)193-NQB	(#58.)595-WKK	(#61.)754-KZD
(#56.)561-PUQ	(#59.)477-WPJ	(#62.)486-OFC
(#57.)512-BCR	(#60.)542-ZGI	(#63.)164-DHX
(#64.)809-WPC	(#67.)129-PKM	(#70.)924-PKF
(#65.)212-QAZ	(#68.)345-PKH	(#71.)9V-19
(#66.)740-YUH	(#69.)281-WJU	(#72.)JD-21

On June 24, 1974, I started preliminary investigation and subsequently learned some of the names of the persons to whom the license plate registrations were issued. Those names are as follows:

(#1.) JSC-9, Appellate Division -- James D. Hopkins, 9 Sterling Road, Armonk,N.Y.

(#2.) USJ-8 -- David N. Edelstein, 1040 Park Avenue, New York, N.Y.

(#3.) JSC-269 -- Robert J. Trainor, 50 Overlook Avenue, Eastchester, N.Y.

(#4.) JSC-193 -- Leonard Rubenfeld, 400 Nelson Avenue, Peekskill, N.Y.

(#5.) JSC-220 -- George Beisheim, Jr., 31 Iroquois Road, Ossining, N.Y.

(#6.) FCJ-96 -- Vincent Gurahian, RFD #2, MacAuley Road, Katonah, N.Y.

Appendix IV--Affidavit of John V. Esposito

(#7.) JSC-174 -- Morrie Slifkin, 45 Rosehill Avenue, Tarrytown, N.Y.

(#8.) SCJ-36 -- Raymond C. Baratta, 30 Thornwood Drive, Poughkeepsie, N.Y.

(#9.) JSC-237 -- Ann T. Mikoll, 35 Burke Drive, Buffalo, N.Y.

(#10.) 59 -- Dorothea E. Donaldson, 65 Brookside Place, New Rochelle, N.Y.

(#11.) WP-13 -- Evans V. Brewster, 26 Harvard Court, White Plains, N.Y.

(#12.) EMA -- Emery M. Anderson, 22 Chedworth Road, Scarsdale, N.Y.

(#13.) 17 (N.Y.) -- New York State Senator Bernard G. Gordon, Chairman of the State Judiciary Committee, office 1019 Park St., Peekskill, N.Y. (initial information had been confused with New York 17 which was an official car of N.Y.S. Dept. of Agric. and Markets).

(#14.) MFG-6 -- Mary F. Gagliardi, 207 Larchmont Avenue, Larchmont, N.Y. (not determined if connected with Judge Gagliardi).

(#15.) CHW -- Charles H. Wackerle, 793 Merchants Road, Rochester, N.Y.

(#16.) FRR-34 -- Identification of ownership not retrievable from the Motor Vehicle Bureau at this time.

Appendix IV--Affidavit of John V. Esposito

(#17.) RAE-34 -- Identification of ownership not retrievable from the Motor Vehicle Bureau at this time.

(#18) CD-87 -- Calvin D. Dale, 1399 Longview Avenue, Peekskill, N.Y.

(#19.) HSL-7 -- Transportation, 1133 York Avenue, New York, N.Y.

(#20.) VV-8 -- George Fanelli, 30 Clinton Place, New Rochelle, N.Y. (believed to be a Judge George Fanelli).

(#21.) 30-MN -- Mildred Nacke, 308 Ringgold Street, Peekskill, N.Y.

(#22.) MJ-399 -- (New Plate #479MMB) Walter P. Hempfling, 476 Glen Ellyn Way, Rochester, N.Y.

(#23.) MAC-18 -- Leroy A. Camp, 950 Phoenix Avenue, Peekskill, N.Y.

(#24.) 63-PUP -- William McDonald, 17 Crescent Court, Peekskill, N.Y.

(#25.) RHH -- Samuel B. Hickman, North Lake Boulevard, Mahopac, N.Y.

(#26.) 50-RC -- William R. Sichol, 10 Viola Road, Suffern, N.Y.

(#27.) TD-22 -- Diana Bwyer, Box #214, Orchard Road, Mahopac, N.Y.

(#28.) 60-VVX -- George Longwell, 1234 Brook Street, Peekskill, N.Y.

Appendix IV--Affidavit of John V. Esposito

(#29.) 399-PLP -- Identification of ownership not retrievable from Motor Vehicle Bureau at this time.

(#30.) 404-NRC -- County Trust Company, 235 Main Street, White Plains, N.Y.

(#31.) 982-VVB -- The County Trust Company, 64 North Broadway, Tarrytown, N.Y.

(#32.) 577-WPP -- County Trust Company, 235 Main Street, White Plains, N.Y.

(#33.) 914-QTK -- Pace College, 41 Park Row, New York, N.Y.

(#34.) (MD)-36976 -- Stuart S. Pines, 12 Dorsey Drive, Peekskill, N.Y.

(#35.) 282-WTN -- Firemans Fund Insurance Co., 1 North Broadway, White Plains, N.Y.

(#36.) 290-ALB -- Thomas R. Ryan, 929 Phoenix Avenue, Peekskill, N.Y.

(#37.) 238-WTQ -- Antonio Santoiemma, 601 Roosevelt Avenue, Peekskill, N.Y.

(#38.) 274-YKC -- Lawrence A. Behrman, 107 Bannon Avenue, Buchanan, N.Y.

(#39.) 303-YKD -- Joseph Sint, 20 Bonnie Meadows, Scarsdale, N.Y.

(#40.) 430-OGT -- Pat Crisipi, 61 South Main Street, New City, N.Y.

Appendix IV--Affidavit of John V. Esposito

(#41.) 289-KZU -- John J. Harm, RFD, 3 Highland Drive, Peekskill, N.Y.

(#42.) 627-KSW -- Guardsman Lease Plan, 80 Sherwood Avenue, Farmingdale, N.Y.

(#43.) 193-RJS -- Wilbert Queen, 1849 Sedgwick Avenue, Bronx, N.Y.

(#44.) 890-WKM -- Denise Hein, 198 Richard Court, Pamona, N.Y. (Plate surrendered 4/9/74.)

(#45.) 614-WHY -- Evelyn B. Stewart, 2401 Pine Grove Court, Yorktown Heights, N.Y.

(#46.) 140-DFO -- Ruth Moschiano, 130 Hudson Avenue, Peekskill, N.Y.

(#47.) 383-RTQ -- Nancy C. Blake, 62 Bergelund Avenue, Staten Island, N.Y.

(#48.) 323-WPZ -- Lawrence Marro, Jr., RFD 8 Brookside Avenue, Peekskill, N.Y.

(#49.) 120-YKF -- O'Neil J. Kelly, Woodmont Road, Hopewell Junction, N.Y.

(#50.) 645-KFG -- Leroy Earle, 40 Clyde Avenue, Hempstead, N.Y.

(#51.) FC-1128 --(New plate 784-PUA) (Plate Surrendered 6/22/73) Frank Coleman, Oregon Corner, Putnam Valley, N.Y.

Appendix IV--Affidavit of John V. Esposito

(#52.) 941-TAF -- Joseph L. Gerneck, Box 141, Seymart Place, Mohegan Lake, N.Y.

(#53.) 334-PUY -- Kevin B. O'Connor, Strawberry Road, Lake Mohegan, N.Y.

(#54.) 95-KYX -- Edward F. Melville, Strawberry Road, Mohegan Lake, N.Y.

(#55.) 193-NQB -- Henry Fernandez, 2 Soundview Avenue, White Plains, N.Y.

(#56.) 561-PUQ -- Serge P. Hermann, Indian Brook Road, Garrison, N.Y.

(#57.) 512-BCR -- Nancy Dubovsky, 433 Arcady Road, Ossining, N.Y.

(#58.) 595-WKK -- Alexander Weir, 36 Sterling Avenue, Harrison, N.Y.

(#59.) 477-WPJ -- John P. Brophy, 352 Union Avenue, Peekskill, N.Y.

(#60.) 542-ZGI -- National Car Rental, CE Hancock Airport, Syracuse, N.Y.

(#61.) 754-KZD -- Murray Halperin, 18 Conklin Avenue, Peekskill, N.Y.

(#62.) 486-OFC -- James A. Shampine, 304 Lyman Avenue, Fulton, N.Y.

(#63.) 164-DHX -- Ruth H. Borbely, 806 Oakwood Drive, Peekskill, N.Y.

(#64.) 809-WPC -- Andrew R. Kansky, Apt. 5L, Rolling Way, Peekskill, N.Y.

Appendix IV--Affidavit of John V. Esposito

(#65.) 212-QAZ -- Carol A. Shann, 87-14 80th Street, Woodhaven, N.Y.

(#66.) 740-YUH -- Jack A. Somers, 19 Stuyvesant Oval, New York, N.Y.

(#67.) 129-PKM -- Barbara A. Burke, 12 Whittier Avenue, Peekskill, N.Y.

(#68.) 345-PKH -- Ralph A. Hermesch, 64 Montrose Point Road, Montrose, N.Y.

(#69.) 281-WJU -- Dolores N. Davis, College Hill Road, Montrose, N.Y.

(#70.) 924-PKF -- Walter D. Henneke, 2731 Quaker Road, Yorktown Heights, N.Y.

(#71.) 9V19 -- (New Plate #494KZG) (Plate change 10/24/73). David C. Dempsey, 109 West Lake Drive, Valhalla, N.Y.

(#72.) JD-21 -- James Dempsey -- Crompond Road, Peekskill, N.Y.

Occupations of the owners of record are being researched through various sources. Some of those now available are listed here:

(#1.) JSC-9 Appellate Division, James D. Hopkins, Associate Justice -- Appellate Division, Second Judicial Department; Judge -- Supreme Court, Ninth Judicial District.

(#2.) USJ-8 David N. Edelstein, Chief Judge -- Southern District, U.S.

Appendix IV--Affidavit of John V. Esposito

District Court.

(#3.) JSC-269 -- Robert J. Trainor, Judge -- Second Department.

(#4.) JSC-193 -- Leonard Rubenfeld, Judge -- Ninth Judicial District.

(#5.) JSC-220 -- George Beisheim, Jr., Judge -- Ninth Judicial District.

(#6.) FCJ-96 -- Vincent Gurahian, Judge -- Family Court, Westchester County.

(#7.) JSC-174 -- Morrie Slifkin, Judge -- Ninth Judicial District.

(#8.) SCJ-36 -- Raymond C. Baratta, Judge -- Surrogate, Dutchess County.

(#9.) JSC-237 -- Ann T. Mikoll, Judge -- Eighth Judicial District.

(#10.) 59 -- Dorothea Donaldson, Judge -- New York State Court of Claims.

(#11.) WP-13 -- Evans V. Brewster, Judge -- Surrogate, Westchester County.

(#12.) EMA -- Emery M. Anderson, Chairman -- Supreme Court Library, White Plains, N.Y.

(#20.) VV-8 -- George Fanelli -- believed to be Judge, Ninth Judicial District.

Appendix IV--Affidavit of John V. Esposito

Most of the automobiles contained, in addition to the driver, three or four additional passengers. Therefore, considerably more guests were in attendance than would be reflected by merely the count of actual automobiles. The identity of the guests in the category of "passengers" are presently unknown, as are certain other guests who may have arrived or left before the surveillance started and after the time of surveillance ended.

Some of the license plates appear to have unidentifiable ownerships. There exists in certain special circumstances involving high Government officials, a special courtesy extended to these officials by the Motor Vehicle Bureau which does not require ownership identification which could be traceable to registration plates. There is some possibility that certain unidentifiable registration plates fall into this category but this cannot be stated as a certainty now.

There appeared to be considerable help required in connection with this large party, and since some of the above stated license plates were on older and less expensive automobiles, the possibility that this list includes at least some of the help attending to this affair is probable.

Voluminous and ongoing research had to be resorted to in order to develop above information. Ongoing research is still now underway by both my office as well as another private investigative agency cooperating with me, Fidelifacts, 25 Broad Street, New York, New York. We have had a noted lack of cooperation in many efforts

Appendix IV--Affidavit of John V. Esposito

to determine the ownership of certain of the registration plates including some rental companies and the motivation for such lack of cooperation is undetermined at this time. It is suggested that Court subpoena powers be invoked in those cases.

This affidavit is updated from my original affidavit on this same subject sworn to on the 26th day of July, 1974, which consisted of the best information available at that time.

I have read the foregoing statements consisting of ten (10) pages and it is true and correct to the best of my knowledge and belief.

/S/ John V. Esposito
JOHN V. ESPOSITO,
President

Sworn to before me this
7th day of November, 1975

/S/
Notary Public

APPENDIX V

APPELLATE DEPARTMENT OF THE SUPREME COURT
OF THE STATE OF NEW YORK
SECOND JUDICIAL DEPARTMENT

Order on Appeal
from Order

At a Term of the Appellate Department of the Supreme Court, of the State of New York, Second Judicial Department, held in Kings County on April 15, 1974.

HON. JAMES D. HOPKINS } Acting Presiding Justice
HON. HENRY J. LATHAM
HON. J. IRWIN SHAPIRO } Associate Justices
HON. ARTHUR D. BRENNAN
HON. FRED J. MUNDER

Mildred Terner,
Respondent,

V.

William Terner,
Appellant.

} Order on Appeal from Order

APPENDIX V -- Order of Appellate Department

In the above entitled cause, the above named William Terner, defendant,

having appealed to this court from an order of the Supreme Court, Westchester county, dated May 31, 1973, which, inter alia, denied his motion for a new trial on the grounds of newly discovered evidence and alleged trial irregularities;

and the said appeal having been argued by Donald Frank, Esq. of counsel for the appellant, and argued by James Dempsey, Esq., of counsel for the respondent, and due deliberation having been had thereon; and upon this court's decision slip heretofore filed and made a part hereof, it is:

ORDERED that the order appealed from is hereby unanimously affirmed, with $23.00 costs and disbursements.

Enter: IRVING N. SELKIN

Clerk of the Appellate Division

APPENDIX VI

SUPREME COURT - STATE OF NEW YORK
SPECIAL TERM, PART WESTCHESTER COUNTY

SHORT FORM ORDER

Present:

Hon.....LEONARD RUBENFELD.....
Justice.

MILDRED TERNER,

Plaintiff,

-- against --

WILLIAM TERNER,

Defendant.

Index Number.....7920-70....., 19....

Motion Date....., 19....

Motion Cal. Number.....

Trial Cal. Number.....

Appendix VI--Hon. Leonard Rubenfeld Order

The following papers numbered 1 to 5 read on this motion by plaintiff for an order of sequestration and for related relief

	Papers Numbered
Notice of Motion/ Order to Show Cause - Affidavits	1
Answering Affidavits	2-3
Replying Affidavits	4-5
Affidavits	
Filed Papers	
Pleadings-Exhibits-Stipulations-Minutes	

Upon the foregoing papers it is ordered that this motion shall be set down for a hearing on the issues of the amount of the alleged arrears and plaintiff's alleged delay of the sale of the marital home, and for determination, upon the filing of a note of issue, payment of appropriate fees and the service of a copy of the note of issue and of this order upon the Clerk of Special Term, Part V.

The defense predicated on §248 of the Domestic Relations Law is dismissed for failure to supply sufficient factual support to warrant a hearing on the issue.

Appendix VI--Hon. Leonard Rubenfeld Order

Dated Sept. 3, 1975 Entered.....

.....

J. S. C.

Briefs: Plaintiffs - Defendants -

Petitioners - Respondents -

APPENDIX VII

Letter From Congressman Peter W. Rodino,
Chairman, Committee on the Judiciary

CONGRESS OF THE UNITED STATES
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515
Telephone: 202-225-3951

Other Congressional Members.....

Counsel and Staff Members.....

August 13, 1976

Mr. William Terner
575 Madison Avenue
Room 1006
New York, New York 10022

Dear Mr. Terner:

Thank you for your letter of July 31 and the accompanying materials. Public input is an integral aspect of the proper functioning of government; necessary both to the operation of a responsive and efficient government as well as to insuring the public's confidence. I commend you for your efforts in this regard.

An honorable judiciary is indispensable to justice in our society. Your concerns with respect to the issue of judicial

reform are shared by many interested laymen, dedicated and capable members of the Bar, members of the Bench, legislators and legal scholars. Reform in government is very often a slow process. However, it is also true that our system of government does work. As recently as December of 1974, the Federal statute was amended to substantially expand the grounds for which a justice or judge might be disqualified for bias. (See, Title 28 United States Code, section 455). And continuous efforts are being made to improve the Federal system and insure its future betterment. I feel confident that as concerns are made public, government, at the Federal and State levels, will become more responsive.

Again, thank you for expressing your concerns and making available to the Committee on the Judiciary materials that might aid us in our efforts to maintain the public's confidence in the integrity of the judicial system.

With best regards,

Sincerely,

/S/ Peter W. Rodino, Jr.

PETER W. RODINO, JR.
Chairman

PWR/tlb

APPENDIX VIII

APPLICATION TO EXTEND TIME
TO FILE WRIT OF CERTIORARI

IN THE
SUPREME COURT OF THE UNITED STATES

WILLIAM TERNER, Pro Se,

Petitioner,

against

Hon. JAMES D. HOPKINS, Justice of the Appellate Div. of the State of N.Y.; Hon. LEONARD RUBENFELD, J.S.C. of the State of N.Y.; JAMES DEMPSEY, Esq.; Hon. ALVIN R. RUSKIN, J.S.C. of the State of N.Y.; Hon. HAROLD L. WOOD, J.S.C. of the State of N.Y.; N.Y. State Sen. BERNARD G. GORDON, Chairman, N.Y.S. Judiciary Comm.; Hon. MARTIN B. STECHER, J.S.C. of the State of N.Y.; Hon. WM. A. WALSH, JR., J.S.C. of the State of N.Y.; JERALD S. KALTER, M.D.; Hon. JOHN C. MARBACH, J.S.C. of the State of N.Y.; MILDRED TERNER; KRAFTCO CORP., and MFG. HANOVER TRUST CO. (Transfer Agents for Kraftco Corp.),

Defendants.

Appendix VIII-Application to Extend Time

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

WILLIAM TERNER, being duly sworn, deposes and says:

I am the petitioner in the above entitled action. This is the only application that I have made to this Court to request an extension of time to file a writ of certiorari. The due date now is January 25, 1977. I respectfully request an extension to file my writ of certiorari to February 14, 1977, a period of twenty-one additional days.

There are two basic reasons why I have been unable to file on time:

1. I am preparing subject writ pro se (and I am not an attorney). I have already devoted many dozens of hours preparing same and require the additional twenty-one days to complete and finalize the draft and print same in accordance with the rules of this Court. Attached hereto as Exhibit I are five

Appendix VIII-Application to Extend Time

pages from the draft of my proposed writ to document that I have been devoting a maximum effort to complete same.

2. My present health is not good due to what my physician attributes to Court related pressures spanning a period of seven years which has seriously elevated my blood pressure. Attached hereto as Exhibit II is a recent letter to me from my physician attesting to the state of my health.

Subject writ is concerned with possibly overturning judgments adverse to me by the UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT and by the UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK. The two subject judgments are attached hereto to comprise Exhibit III.

The issues to be presented to this Court concern judicial misconduct by certain State judges in concert with others which I assert have clearly deprived me of my Constitutional rights in New York State.

AppendixVIII-Application to Extend Time

The facts are documented to the Court below and will be re-submitted to this Court if I am afforded the opportunity of submitting subject writ and if subject writ is deemed worthy enough to warrant a full review of the merits of subject litigation by this Court.

The essence of my allegations consist of literally dozens of serious Court irregularities which were never once disputed by my adversaries. These include the undisputed fact that certain New York State judges were presiding in my matters that involved interested parties with whom said judges had had a personal and social relationship while not disclosing this fact beforehand to afford to me the option of requesting a judge not having a social and personal relationship with my adversary attorney nor did subject judges disqualify themselves. This is flagrant abuse of the Canons of Judicial Ethics and I so charged in my argument to the UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.
Despite the summary (adverse -- to me --) opinion rendered by that Court, it is a fact that both Judge Lumbard and Judge

Van Graafeiland revealed in open Court to having had some degree of a personal relationship with my adversary attorney in the New York State Courts who was present as well as an attorney who was assisting me at that time in Court. I stated to that Second Circuit Court that all I asked for in the New York State Courts was the same disclosure and emphasized the point by stating that if a juror refused to disclose a personal and social relationship with one of the litigating parties, that that juror would be subject to serious criminal prosecution. A layman sitting on a jury might resort to an excuse of "ignorance of the law." A judge can make no such claim and I so stated to that Second Circuit tribunal.

I have contacted cabinet officials whose responsibilities would encompass concern with such flagrant abuses by State Court judges, as well as the media. Their response in general was in support of my position that certain State Court judges were abusing the powers of their office. In fact, the Chairman of the House Judiciary Committee responded with a letter

citing certain Federal statutes which require "full disclosure" by a judge and this is over and above any compliance with the Canons of Judicial Ethics, which I understand all judges are subject to conform to. I utilized those Federal Codes in my reply brief submitted to the SECOND CIRCUIT COURT OF APPEALS and they are a 1974 addition to the Federal Judicial Code, 28 U.S.C.A. 455 (supp. 1976) which provides in (a) that any judge "shall disqualify himself in any proceeding in which his partiality might be questioned;" and then adds in (e) that "Waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification." In practice, they do not conform and evidently this practice is so widespread that it is now accepted as "normal operating procedure" in certain State Courts.

There is also an apparent pattern for the "judiciary" to protect the "judiciary" and a full airing of this matter will document that this does indeed exist and is widespread.

I abhor the underlying inference by

some that I am merely a "sore loser." In my Federal Court action there was not one single reference made to re-trying any of the merits of the case, but rather focus was exclusively attentioned upon Court irregularities. Prior to my having been "whip-sawed" for seven years by certain segments of the New York State Courts -- I was a man in excellent health, enjoying the financial fruits of a lifetime of diligent work including a tenure as one of the senior officers of one of our Country's largest corporations.

I do not believe it right for some State Courts to be used for what I document has been "legalized grand larceny." Not once did my adversaries dispute even a single one of my serious charges against them documented by either third party affidavits, Court minutes, and other Court records.

It appears that it would be more convenient for those utilizing our Courts as "their own private country club" to sweep this matter under the rug as was attempted in Watergate.

I ask this Court for my day in this Court to which I feel fully entitled to request based upon the merits of the facts presented and to be presented.

I respectfully request that this Court grant my application for an additional twenty-one days in order to afford to me the opportunity to properly present the facts for your consideration both for my own interests as well as for the interest of countless millions of other citizens who up to now have had to "grin and bear it."

Another major point of my case which effects all citizens of our Country is that the present Internal Revenue Service business codes permit lawyers entertaining judges to deduct those expenses when computing income taxes. My adversary attorney in the New York State Courts has been in the habit of lavishly entertaining judges at circus tent extravaganzas and this is documented via third party affidavits. Some of those judges presided over my cases without ever disclosing their relationship with their host-attorney in open Court as is required by the Canons of

AppendixVIII-Application to Extend Time

Judicial Ethics. At present, the IRS is an innocent partner in promoting judicial favoritism by virtue of the entertained judges and their families. They could be beholden to a standard of living they could not normally afford on a judges present salary. In effect, additional tax burdens are shifted to millions of other unwitting citizens like myself who might have been indeed paying for our own adverse decisions. Government regulations clearly forbid Pentagon officials from accepting entertainment from potential Government contractors. Actually, those Pentagon officials are "judges" determining the merits of one contractor's product as compared to another. Is it too much to ask that an ordinary citizen like myself, relying upon the equal justice guaranteed by our Constitution, be afforded the same even-handed judicial assessments as required by our Pentagon purchasing personnel?

Practical justice can be far different from theoretical justice and this Court finally eliminated the poll tax which converted a theoretical Constitutional

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right to an actual Constitutional right.

As Federal Judge Clark explained in In Re Sacher, 306 F. 2d 358, 365 (2d Cir. 1953)(dissenting opinion), rev'd sub. nom. Sacher v. Association of the Bar Ass'n, 347 U.S. 388 (1954): "For our courts should be, like Caesar's wife, above suspicion." I beseech this Court to act in a positive way to discourage practices of attorneys and judges circumventing true justice by whatever their method no matter how subtly contrived. I ask this Court to help the judges of the State of New York and perhaps state judges throughout the Country to be, like Caesar's wife, above suspicion.

Respectfully submitted,

/S/ WILLIAM TERNER

WILLIAM TERNER, Pro Se
575 Madison Avenue (Room 1006)
New York, New York 10022

AppendixVIII-Application to Extend Time

I, WILLIAM TERNER, hereby certify that I mailed a copy of the foregoing APPLICATION FOR AN EXTENSION OF TIME TO FILE to:

LOUIS J. LEFKOWITZ, Attorney General
of the State of N.Y.
Attorney for Appellees State Judges
Two World Trade Center, New York, New York 10047
Att: SAMUEL A. HIRSCHOWITZ, First Assistant Attorney General
ROBERT S. HAMMER, Of Counsel, Assistant Attorney General

James Dempsey, Esq., Dempsey and Spring, P.C.
175 Main Street, White Plains, N.Y. 10601

N.Y.S. Sen. Bernard G. Gordon (Chairman N.Y.S. Judiciary Comm.)
1019 Park Street, Peekskill, N.Y. 10566

Jerald S. Kalter, M.D.
130 East 67th Street, New York, N.Y. 10021

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James Dempsey, Esq., Dempsey and Spring, P.C.
Attorney for Appellee Mildred Terner, now known as Mrs. Jerald Kalter
175 Main Street, White Plains, N.Y. 10601

Sullivan and Cromwell, Attorneys for Appellee Kraftco Corp.
48 Wall Street, New York, New York 10005
Att: Marvin Schwartz, Of Counsel
Barbara A. Mentz, Of Counsel

Kelley Drye and Warren, Attorneys for Appellee Manufacturers Hanover Trust Company
350 Park Avenue, New York, New York 10022
Att: Richard J. Concannon, Of Counsel
Charles Pou, Jr., Of Counsel

/S/ WILLIAM TERNER
WILLIAM TERNER

AppendixVIII-Application to Extend Time

"EXHIBIT I"

APPLICATION TO EXTEND TIME
TO FILE WRIT OF CERTIORARI
AND AFFIDAVIT

D R A F T
Pages In Writ of Certiorari

1. Title Page.

2. Page 38.

3. Page 5.

4. Page I -- TABLE OF CONTENTS

5. Page 44.

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"EXHIBIT II"

MICHAEL S. BRUNO, M. D.
535 Park Avenue
New York, N. Y. 10021

TEmpleton 6-3155

October 21, 1976

Mr. William Terner
575 Madison Avenue (Room 1006)
New York, New York 10022

Dear Bill:

There has been no improvement in your high blood pressure problem because you are still being subjected to great personal stress.

I have repeatedly warned you in the past that you are a prime stroke candidate.

You must remove yourself from all conditions of stress to reduce this almost certain likelihood of a stroke. Your reluctance to comply with my previous instructions to take a long rest away from pressures of any kind is making it extremely difficult or perhaps even impossible to at least partially repair the extensive damage already suffered by your system.

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Sincerely,

/S/ MICHAEL S. BRUNO, M.D.

MSB/je Michael S. Bruno, M.D.
Director, Department of Medicine
President of the Medical Board
Lenox Hill Hospital

Appendix VIII-Application to Extend Time

"EXHIBIT III"

1. Memorandum and Order of District Judge Whitman Knapp, contained here as APPENDIX II, A44-52.

2. Opinion of Second Circuit, UNITED STATES COURT OF APPEALS, contained here as APPENDIX III, A53-54.

APPENDIX IX

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI

SUPREME COURT OF THE UNITED STATES

No. A-608

WILLIAM TERNER,
Petitioner,

v.

HON. JAMES D. HOPKINS, ET AL.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI

UPON CONSIDERATION of the application of counsel for petitioner~~(s)~~,

IT IS ORDERED that the time for filing a petition for writ of certiorari in the above-entitled case be, and the same is hereby, extended to and including February 14, 1977, without prejudice to the Court's consideration of whether this application has been filed

Appendix IX---Order Extending Time To File Petition For Writ of Certiorari

in time.

/s/ Thurgood Marshall
Associate Justice of
the Supreme Court of
the United States

Dated this 27th
day of January, 1977.

APPENDIX X

Reason For Application To Extend Time To Submit Writ of Certiorari Being Late By 32 minutes

Eastern Airlines gave erroneous shuttle flight information to petitioner upon which petitioner relied to permit the submission of his Application to Extend by three weeks the time to submit subject writ to this Court.

The information originally given to petitioner by Eastern provided for a safe time margin for unforseen contingencies.

Petitioner advised and personally met with Eastern's Supervisor of Air Shuttle Services, Mr. Frank J. Horn at LaGuardia Airport in New York City. Mr. Horn acknowledged Eastern's error which confused the LaGuardia to Boston Shuttle with the LaGuardia to Washington National Airport shuttle. Mr. Horn was advised by petitioner of the serious implications of Eastern's error and Mr. Horn arranged for a special light aircraft to fly petitioner to the Washington, D.C. National Airport in the hopes of making the midnight deadline. Eastern also arranged for a car to be waiting for petitioner at National Airport, at their expense, in order to expedite the submission of subject papers. The charter service contacted by Eastern through Butler Aircraft was Sound Air Aviation. They flew a plane into LaGuardia from MacArthur Airport in Ronkonkoma, Long Island, New York, to pick up petitioner and fly him to National Airport.

Appendix X--

The names and addresses of the parties involved are as follows:

Frank J. Horn, Supervisor, Air Shuttle Services, Eastern Airlines, La-Guardia Airport, Flushing, New York 11371; Telephone: (212) 476-4698

Sound Air Aviation, Hangar "A", Mac-Arthur Airport, Ronkonkoma, N.Y. 11779; Telephone: (212) 476-0200
Name of pilot: Peter W. Theisen